

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**Office of the Assistant Secretary for Housing-Federal Housing Commissioner****[Docket No. FR-3953-N-01]****Notice of Sale of Defaulted Title I Loans**

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, Department of Housing and Urban Development.

ACTION: Notice of Sale of Defaulted Title I Loans.

SUMMARY: This notice announces the Department's intention to sell defaulted Title I loans by sealed bid. The loans were insured under the provisions of section 2 of title I of the National Housing Act (12 U.S.C. 1703). Each loan was made for either the alteration, repair or improvement of property, or for the purchase of a manufactured home. This notice also describes the bidding process for these loans. This is a notice of a sale of three pools of loans. It is not an offer to sell the loans. Offers will only be made individually to those interested parties that have executed a Confidentiality Agreement and a Bidder Qualification Statement that are accepted by the Department.

DATES: Bid Packages will be available on or about September 25, 1995. The loan sale will occur on or about November 6, 1995.

ADDRESSES: To obtain a Bid Package interested parties must obtain and execute both a Confidentiality Agreement and a Bidder Qualification Statement. Interested parties can obtain these documents from: FHA Information Center, 135 Center Street, Bristol, CT 06010, telephone 1-800-877-4814, FAX (203) 584-4759. (This FAX number is not a toll-free number.) Upon receipt of an executed Confidentiality Agreement and a Bidder Qualification Statement, a Bid Package will be forwarded by regular mail. Interested parties may make special arrangements to receive a Bid Package the next day.

FOR FURTHER INFORMATION CONTACT: William Richbourg, Office of the Housing-FHA Comptroller, Room 5146, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 401-0577, ext. 2727. Hearing or speech-impaired individuals may call (202) 708-4594 (TDD). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: The Department intends to sell three pools

of approximately 16,000 defaulted Title I loans. The majority of loans are unsecured and nonperforming. A loan is considered to be nonperforming if fewer than 10 of the previous 12 scheduled payments have been made. Some nonperforming loans do generate cash flows from borrower payments. A list of specific loans and pool descriptions will be contained in the Bid Package. No loans will be sold individually. The loans will be sold without Federal Housing Administration (FHA) insurance. Interested parties may bid competitively on the pool(s) of the defaulted Title I Loans. Bids may be made for one or all of the pools of defaulted Title I Loans, as well as for any combination of the pools. The Department will accept those bids that maximize the gross proceeds from the sale.

This is not an offer to sell these loans. Offers will only be made individually to interested parties that certify that they or their advisors: (a) Are sophisticated purchasers; (b) have been given the opportunity to make their purchase decisions based upon review of information concerning the loans and such other due diligence as they deem necessary; (c) are not relying on representations or warranties, written or oral, from HUD; and (d) have the ability to evaluate the risks of the transactions and can bear the loss of the purchase price.

The Bid Process

The Department will describe the procedure for participating in the Title I Defaulted Loan Sale in a Bid Package, which will include a nonnegotiable loan sale agreement prepared by the Department (Sale Agreement), specific bid instructions, as well as pertinent information such as total outstanding debt and applicable interest rate. Bid Packages will be mailed approximately 6 weeks prior to the Bid Date. The Bid Package will also include instructions for Bidder Registration and will contain procedures for obtaining supplemental information about the loans. Any interested party may request a copy of the Bid Package by following the instructions specified in the **ADDRESSES** section, above, of this notice.

Prior to the Bid Date a Bid Package Supplement will be mailed to all Registered Bidders. It will contain the final list of loans to be conveyed to the successful bidder(s).

Each bidder must include a deposit equal to 10% of the amount of its bid(s). If a successful bidder fails to abide by the terms of the Sale Agreement, including paying the Department any remaining sums due pursuant to the

Sale Agreement and closing within the time period provided by the Sale Agreement, the Department shall retain and accept any deposit as liquidated damages.

Due Diligence Facilities

A due diligence period will take place prior to the Bid Date. During the due diligence period, supplemental information including payment and collection histories will be available for review by registered bidders.

Supplemental information will be available by mail in an electronic form or by examination of servicing files located at Due Diligence Facilities located in Albany, New York; Chicago, Illinois; and Seattle, Washington. The supplemental information at each Due Diligence Facility will not be duplicative of the information in the other Due Diligence Facilities. Registered bidders must go to the three Due Diligence Facilities to gain access to hard copy supplemental information covering the complete portfolio. Specific instructions for ordering supplemental information in an electronic format or making an appointment to utilize one of the Due Diligence Facilities will be included in the Bid Package. The Department reserves the right to charge a reasonable fee to cover its costs in duplicating and forwarding any information requested by an interested party.

Title I Defaulted Loan Sale Policy

The Department reserves the right to add or delete loans to the Title I Defaulted Loan Sale at any time prior to the sale. The Department also reserves the right to reject any and all bids, without prejudice to the Department's right to include any defaulted Title I Loans in a later sale.

Ineligible Bidders. The following individuals and entities (either alone or in combination with others) are ineligible to bid on any one or combination of the Title I Defaulted Loan pools included in the Title I Defaulted Loan Sale:

- (1) Any employee of the Department;
- (2) Any individual or entity that is debarred from doing business with the Department pursuant to 24 CFR Part 24;
- (3) Any contractor, subcontractor and/or consultant (including any agent of the foregoing) who performed services for, or on behalf of, the Department in connection with the Title I Defaulted Loan Sale;
- (4) Any individual that was a principal and/or employee of any entity or individual described in paragraph (3) above at any time during which the entity or individual performed services

for, or on behalf of, the Department in connection with the Title I Defaulted Loan Sale; and

(5) Any individual or entity that does not meet the qualifications as certified in the Bidder Qualification Statement.

Number of Bids. A bidder may bid on as many pools as the bidder chooses.

Timely Bids and Deposits. Each bidder assumes all risks of loss relating to its failure to deliver, or cause to be delivered, on a timely basis and in the manner specified by the Department, each bid form, earnest money deposit, and loan sale agreement required to be submitted by the bidder.

Ties for High Bidder. In the event there is a tie for a high bid, the Department, through its financial advisor, will contact the parties for which there are tied bids and afford each of them an opportunity to offer a best and final bid. The successful bidder will be the one with the highest bid. If a tie continues after the best and final offers are submitted or the bidders do not respond within the time period established by the Department, the successful bidder will be determined by lottery. Notwithstanding the above, the Department reserves the right to withdraw any pool(s) of Title I defaulted loans subject to tied bids.

Cashflow Status of Title I Defaulted Loans. Most of the loans included in the Title I Defaulted Loan Sale are nonperforming. However, some of the loans generate cash flow from borrower payments under the terms of modification agreements or repayment plans. The Department will provide details of the repayment terms and payment histories, as reflected in Departmental records. The completeness and accuracy of the records cannot be guaranteed but the Department will provide to the best of its ability the current information contained in its records. During the due diligence period the Department will continue aggressive collection activities

and some loans which are nonperforming may pay off or begin to generate cash flow on or before the date that title is transferred to the successful bidder. Some loans which are generating cash flow may also pay off or become nonperforming. In the Final Bid Package the Department will include the most current status of each loan available. However, the Department makes no representations as to the status of loans on the date that title is transferred.

Interest Rate Restrictions. Restrictions on the rates of interest that may be charged by the purchasers of the Title I loans will convey with the loans. When the Department accepted ownership of these loans, which generally carry high interest rates, it assessed interest at the lesser of the rate specified in the loan or the United States Treasury's current value of funds rate in effect on the date the Title I insurance claim was paid by the Department. See 24 CFR 201.62(a). Purchasers of defaulted Title I loans will be required to charge interest at no greater rate than that charged by the Department.

These are the essential terms of sale. The Sales Agreement will provide additional details. To ensure a competitive bidding process, the terms of sale are not subject to negotiation.

Title I Defaulted Loan Sale Procedure

The Department selected competitive sealed bids as the method to sell the pools of defaulted Title I loans. This method of sale optimizes the Department's return on the sale of these Title I loans, affords the greatest opportunity for all interested parties to bid on the defaulted Title I loans, and provides the quickest and most efficient vehicle for the Department to dispose of the pools of defaulted Title I loans.

Security Interests

Manufactured home loans are unsecured. These loans were secured

when made, but the collateral was repossessed by the lenders, and the debts owed to the Department on these loans represents the deficiency after deducting the greater of the assessed value or the sale price from the unpaid principal balance of the loans, and adding certain expenses incurred by the lenders.

Property improvement loans may or may not be secured. The regulations require that any property improvement loan over a specified dollar amount must be secured by a deed of trust or a mortgage or, in Texas, a mechanic's or materialman's lien. This dollar amount has been, at various times, \$2,500, \$5,000, and \$7,500.

In addition, lenders could require security for loans below those amounts. Therefore, many of the property improvement loans may be accompanied by security instruments. The liens are usually second liens, but in some cases may be first liens, and in others may be in third or even lower position. Many of the liens represented by these security instruments may have been extinguished due to foreclosures of superior liens. The Department makes no representation as to the status or validity of any lien obtained as security for a Title I loan.

Scope of Notice

This notice applies to the Title I Defaulted Loan Sale, and does not establish Departmental procedures for the sale of other loans, mortgage loans, or servicing interests. If there are any conflicts between the Notice and the Bid Package, the contents of the Bid Package prevail.

Dated: September 8, 1995.

Jeanne K. Engel,

General Deputy Assistant Secretary for
Housing-Federal Housing Commissioner.

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